

§577.6

49 CFR Ch. V (10–1–11 Edition)

(B) The manufacturer has failed or is unable to remedy the defect or non-compliance without charge—

(1) (In the case of motor vehicles or items of replacement equipment, other than tires) within a reasonable time, which is not longer than 60 days in the case of repair after the owner's first tender to obtain repair following the earliest repair date specified in the notification, unless the period is extended by Administrator.

(2) (In the case of tires) after the date specified in the notification on which replacement tires will be available.

(2) When the manufacturer is not required to remedy the defect or non-compliance without charge and he will not voluntarily so remedy, the statement shall include—

(i) A statement that the manufacturer is not required by the Act to remedy without charge.

(ii) A statement of the extent to which the manufacturer will voluntarily remedy, including the method of remedy and any limitations and conditions imposed by the manufacturer on such remedy.

(iii) The manufacturer's opinion whether the defect or noncompliance can be remedied by repair. If the manufacturer believes that repair is possible, the statement shall include the information specified in paragraph (g)(1)(iv) of this section, except that:

(A) The statement required by paragraph (g)(1)(iv)(A) of this section shall also indicate the suggested list price of each part.

(B) The statement required by paragraph (g)(1)(iv)(C) of this section shall also indicate the manufacturer's estimate of the date on which the parts will be generally available.

(h) Any lessor who receives a notification of a determination of a safety-related defect or noncompliance pertaining to any leased motor vehicle shall send a copy of such notice to the lessee as prescribed by §577.7(a)(2)(iv). This requirement applies to both initial and follow-up notifications, but

does not apply where the manufacturer has notified a lessor's lessees directly.

(Authority: Secs. 108, 112, and 119, Pub. L. 89–563; 80 Stat. 718; secs. 102, 103, and 104, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1397, 1401, 1408, and 1411–1420); delegation of authority at 49 CFR 1.50)

[41 FR 56816, Dec. 30, 1976, as amended at 46 FR 6971, Jan. 22, 1981; 46 FR 28657, May 28, 1981; 60 FR 17270, Apr. 5, 1995; 61 FR 279, Jan. 4, 1996; 68 FR 18142, Apr. 15, 2003; 70 FR 35557, June 21, 2005; 72 FR 32016, June 11, 2007]

§577.6 Notification pursuant to Administrator's decision.

(a) *Agency-ordered notification.* When a manufacturer is ordered pursuant to 49 U.S.C. 30118(b) to provide notification of a defect or noncompliance, he shall provide such notification in accordance with §§577.5 and 577.7, except that the statement required by paragraph (c) of §577.5 shall indicate that the decision has been made by the Administrator of the National Highway Traffic Safety Administration.

(b) *Provisional notification.* When a manufacturer does not provide notification as required by paragraph (a) of this section, and an action concerning the Administrator's order to provide such notification has been filed in a United States District Court, the manufacturer shall, upon the Administrator's further order, provide in accordance with paragraph (b) of §577.7 a provisional notification containing the information specified in this paragraph, in the order and, where specified, the form of paragraphs (b)(1) through (b)(12) of this section.

(1) An opening statement: "This notice is sent to you in accordance with the requirements of the National Traffic and Motor Vehicle Safety Act."

(2) Whichever of the following statements is appropriate:

(i) "The Administrator of the National Highway Traffic Safety Administration has decided that a defect which relates to motor vehicle safety exists in (identified motor vehicles, in the case of notification sent by a manufacturer of motor vehicles; identified replacement equipment, in the case of notification sent by a manufacturer of replacement equipment);" or

(ii) "The Administrator of the National Highway Traffic Safety Administration has decided that (identified motor vehicles in the case of notification sent by a motor vehicle manufacturer; identified replacement equipment, in the case of notification sent by a manufacturer of replacement equipment) fail to conform to federal Motor Vehicle Safety Standard No. (number and title of standard)."

(3) When the Administrator decides that the defect or noncompliance may not exist in each such vehicle or item of replacement equipment, the manufacturer may include an additional statement to that effect.

(4) The statement: "(Manufacturer's name or division) is contesting this determination in a proceeding in the Federal courts and has been required to issue this notice pending the outcome of the court proceeding."

(5) A clear description of the Administrator's stated basis for his decision, as provided in his order, including a brief summary of the evidence and reasoning that the Administrator relied upon in making his decision.

(6) A clear description of the Administrator's stated evaluation as provided in his order of the risk to motor vehicle safety reasonably related to the defect or noncompliance.

(7) Any measures that the Administrator has stated in his order should be taken by the owner to avoid an unreasonable hazard resulting from the defect or noncompliance.

(8) A brief summary of the evidence and reasoning upon which the manufacturer relies in contesting the Administrator's determination.

(9) A statement regarding the availability of remedy and reimbursement in accordance with paragraph (b)(9)(i) or (9)(ii) of this section, whichever is appropriate.

(i) When the purchase date of the vehicle or item of equipment is such that the manufacturer is required by the Act to remedy without charge or to reimburse the owner for reasonable and necessary repair expenses, he shall include—

(A) A statement that the remedy will be provided without charge to the owner if the Court upholds the Administrator's decision;

(B) A statement of the method of remedy. If the manufacturer has not yet determined the method of remedy, he shall indicate that he will select either repair, replacement with an equivalent vehicle or item of replacement equipment, or (except in the case of replacement equipment) refund, less depreciation, of the purchase price; and

(C) A statement that, if the Court upholds the Administrator's decision, he will reimburse the owner for any reasonable and necessary expenses that the owner incurs (not in excess of any amount specified by the Administrator) in repairing the defect or noncompliance following a date, specified by the manufacturer, which shall not be later than the date of the Administrator's order to issue this notification.

(ii) When the manufacturer is not required either to remedy without charge or to reimburse, he shall include—

(A) A statement that he is not required to remedy or reimburse, or

(B) A statement of the extent to which he will voluntarily remedy or reimburse, including the method of remedy, if then known, and any limitations and conditions on such remedy or reimbursement.

(10) A statement indicating whether, in the manufacturer's opinion, the defect or noncompliance can be remedied by repair. When the manufacturer believes that such remedy is feasible, the statement shall include:

(i) A general description of the work and the manufacturer's estimate of the costs involved in repairing the defect or noncompliance;

(ii) Information on where needed parts and instructions for repairing the defect or noncompliance will be available, including the manufacturer's estimate of the day on which they will be generally available;

(iii) The manufacturer's estimate of the time reasonably necessary to perform the labor required to correct the defect or noncompliance; and

(iv) The manufacturer's recommendations of service facilities where the owner could have the repairs performed, including (in the case of a manufacturer required to reimburse if the Administrator's decision is upheld in the court proceeding) at least one service facility for whose charges the

§577.7

49 CFR Ch. V (10–1–11 Edition)

owner will be fully reimbursed if the Administrator's decision is upheld.

(11) A statement that further notice will be mailed by the manufacturer to the owner if the Administrator's decision is upheld in the court proceeding.

(12) An address of the manufacturer where the owner may write to obtain additional information regarding the notification and remedy.

(c) *Post-litigation notification.* When a manufacturer does not provide notification as required in paragraph (a) of this section and the Administrator prevails in an action commenced with respect to such notification, the manufacturer shall, upon the Administrator's further order, provide notification in accordance with paragraph (b) of §577.7 containing the information specified in paragraph (a) of this section, except that—

(1) The statement required by paragraph (c) of §577.5 shall indicate that the decision has been made by the Administrator and that his decision has been upheld in a proceeding in the Federal courts; and

(2) When a provisional notification was issued regarding the defect or noncompliance and the manufacturer is required under the Act to reimburse—

(i) The manufacturer shall state that he will reimburse the owner for any reasonable and necessary expenses that the owner incurred (not in excess of any amount specified by the Administrator) for repair of the defect or noncompliance of the vehicle or item of equipment on or after the date on which provisional notification was ordered to be issued and on or before a date not sooner than the date on which this notification is received by the owner. The manufacturer shall determine and specify both dates.

(ii) The statement required by paragraph (g)(1)(vii) of §577.5 shall also inform the owner that he may submit a complaint to the Administrator if the owner believes that the manufacturer has failed to reimburse adequately.

(3) If the manufacturer is not required under the Act to reimburse, he shall include—

(i) A statement that he is not required to reimburse, or

(ii) When he will voluntarily reimburse, a statement of the extent to

which he will do so, including any limitations and conditions on such reimbursement.

[41 FR 56816, Dec. 30, 1976, as amended at 60 FR 17271, Apr. 5, 1995]

§577.7 Time and manner of notification.

(a) The notification required by §577.5 shall—

(1) Be furnished within a reasonable time after the manufacturer first decides that either a defect that relates to motor vehicle safety or a noncompliance exists. The Administrator may order a manufacturer to send the notification to owners on a specific date where the Administrator finds, after consideration of available information and the views of the manufacturer, that such notification is in the public interest. The factors that the Administrator may consider include, but are not limited to, the severity of the safety risk; the likelihood of occurrence of the defect or noncompliance; whether there is something that an owner can do to reduce either the likelihood of occurrence of the defect or noncompliance or the severity of the consequences; whether there will be a delay in the availability of the remedy from the manufacturer; and the anticipated length of any such delay.

(2) Be accomplished—

(i) In the case of a notification required to be sent by a motor vehicle manufacturer, by first class mail to each person who is registered under State law as the owner of the vehicle and whose name and address are reasonably ascertainable by the manufacturer through State records or other sources available to him. If the owner cannot be reasonably ascertained, the manufacturer shall notify the most recent purchaser known to the manufacturer. The manufacturer shall also provide notification to each lessee of a leased motor vehicle that is covered by an agreement between the manufacturer and a lessor under which the manufacturer is to notify lessees directly of safety-related defects and noncompliances.

(ii) In the case of a notification required to be sent by a replacement equipment manufacturer—